United Nations S/AC.43/2010/8

Security Council

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Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

Letter dated 9 July 2010 from the Permanent Representative of Malaysia to the United Nations addressed to the Chair of the Committee

On behalf of the Government of Malaysia, I have the honour to submit herewith the report of Malaysia on its implementation of Security Council resolution 1896 (2009) concerning the Democratic Republic of the Congo.

I hope that this communication will be taken into full consideration by the Security Council Committee established pursuant to resolution 1533 (2004), and will be reflected as fulfilling Malaysia's obligations to cooperate with the Group of Experts in respect of the latter's mandate under paragraph 7 of resolution 1896 (2009). This communication is also intended to complete Malaysia's reporting obligations under paragraph 5 of resolution 1896 (2009).

(*Signed*) Hamidon **Ali**
Ambassador
Permanent Representative

10-45320 (E) 190710

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Annex to the letter dated 9 July 2010 from the Permanent Representative of Malaysia to the United Nations addressed to the Chair of the Committee

Report by Malaysia to the Security Council submitted pursuant to resolution 1896 (2009)

1. Malaysia remains committed to the implementation of the provisions of Security Council resolutions 1804 (2008), 1807 (2008), 1857 (2008) and 1896 (2009) concerning the Democratic Republic of the Congo.

2. Paragraph 5 of Security Council resolution 1896 (2009), inter alia, calls upon Member States to report to the Committee "on the actions they have taken to implement the measures imposed by paragraphs 1, 2 and 3" of said resolution.

3. Malaysia is pleased therefore to submit to the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo the steps which Malaysia has taken to implement those obligations contained in resolution 1896 (2009) which are applicable to Malaysia.

I. Implementation of paragraph 1 of Security Council resolution 1896 (2009) and paragraph 1 of Security Council resolution 1807 (2008)

4. In addition to widely disseminating, through the Government machinery, Malaysia's obligations under resolution 1807 (2008), a number of domestic laws are already in place which may be utilized to prosecute perpetrators of arms-related offences. These include:

(a) The Corrosive and Explosive Substances and Offensive Weapons Act (1958), which criminalizes the possession of corrosive and explosive substances and the carrying of offensive weapons;

(b) The Arms Act (1960), which criminalizes the possession or use of arms and ammunition without relevant licences and permits;

(c) The Customs Act (1967), which regulates the import and export of all goods, including prohibited materials under treaty obligations.

5. Malaysia views seriously its obligations to the international community. To this end, in April 2010, the Malaysian Parliament passed the Strategic Trade Act (2010). The Act authorizes enforcement agencies to investigate and prosecute individuals involved in the export of weapons and dual-use equipment used specifically in the development of weapons of mass destruction. The Act also includes specific provisions on the control of exports, trans-shipment, transiting and brokering of strategic goods, including arms and related materiels, and other activities that will or may facilitate the design, development or production of weapons of mass destruction and their delivery systems.

II. Implementation of paragraph 3 of Security Council resolution 1896 (2009) and paragraphs 9 and 11 of Security Council resolution 1807 (2008)

6. Pursuant to Security Council resolution 1807 (2008), and in particular paragraph 9 of that resolution, the Immigration Department of Malaysia has taken active steps to prevent entry into or transit through its territories of the individuals specified in paragraph 13 of said resolution.

7. Furthermore, the Central Bank of Malaysia has also taken the necessary steps to comply with the Central Bank of Malaysia Act (2009), the Exchange Control Act (1953) and Security Council resolution 1807 (2008), by issuing circulars to all relevant financial institutions to freeze the funds, other financial assets and economic resources that are directly or indirectly owned or controlled by those individuals specified in paragraph 13 of resolution 1807 (2008).

III. Implementation of paragraphs 14 and 15 of Security Council resolution 1896 (2009)

8. Malaysia constantly monitors the industry that is principally involved with the acquisition and trading of mineral products by ensuring that the industry strictly conforms to existing domestic laws, reflecting international obligations. The Ministry of Natural Resources and Environment, in this regard, diligently produces the import and export licences for minerals and mineral goods. In this regard, the Ministry utilizes the following rules and regulations currently in place to regulate the control of imports and exports:

(a) The Customs Act (1967);

(b) Customs (Prohibition of Exports) Order (1998);

(c) Customs (Prohibition of Imports) Order (1998);

(d) Exchange Control Act (1953).

9. Malaysia reaffirms its commitment to its obligations under the Charter of the United Nations and stands ready to extend its cooperation to the Group of Experts and the Security Council Committee established pursuant to resolution 1533 (2004).

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Security Council

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24 September 2010

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Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

Note verbale dated 1 September 2010 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Germany to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo and has the honour to hereby transmit the report of Germany on the implementation of measures set forth in Security Council resolutions 1857 (2008) and 1896 (2009) and subsequent resolutions (see annex).

10-55017 (E) 270910

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Annex to the note verbale dated 1 September 2010 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee

Report of Germany to the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo on the implementation of measures set forth in Security Council resolutions 1857 (2008) and 1896 (2009) and subsequent resolutions

I. Measures adopted by the European Union

Germany and the other member States of the European Union have jointly implemented the restrictive measures imposed by Security Council resolutions 1857 (2008) and 1896 (2009) by taking common measures (all common measures are published in the *Official Journal of the European Union*, which can be consulted through the following web pages: www.eur-lex.europa.eu/JOIndex.do (published issues) and www.eur-lex.europa.eu/RECH_menu.do (search from)):

1. Council Common Position 2008/369/CFSP of 14 May 2008 concerning restrictive measures against the Democratic Republic of the Congo and repealing Common Position 2005/440/CFSP as amended by Common Position 2009/66/CFSP and Council Decision 2009/349/CFSP.

The Council Common Position sets out the EU's commitment to implementation of all the measures contained in Security Council resolution 1596 (2005) and resolution 1807 (2008), and provides the basis for EU specific implementation measures within the scope of the resolutions, notably:

- An embargo on arms and related material against all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo as well as a ban on the provision of related technical assistance and financing,
- Restrictions on admission for persons designated by the United Nations sanctions Committee,
- Asset freeze of funds, other financial assets and economic resources owned or controlled directly or indirectly by the persons designated by the United Nations sanctions Committee.

Security Council resolutions 1857 (2008) and 1896 (2009) renew the restrictive measures of resolution 1807 (2008). The Council Common Position is reviewed, amended or repealed as appropriate, as determined by the United Nations Security Council.

2. (a) Council Regulation (EC) No. 889/2005 of 13 June 2005 imposing certain restrictive measures in respect of the Democratic Republic of the Congo and repealing Regulation (EC) No. 1727/2003 as amended by Council Regulation (EC) No. 1377/2007 and Council Regulation (EC) No. 666/2008.

(b) Council Regulation (EC) No. 1183/2005 of 18 July 2005 imposing certain specific restrictive measures directed against persons acting in violation of

the arms embargo with regard to the Democratic Republic of the Congo as amended by Council Regulation (EC) No. 1791/2006 and Commission Regulation (EC) No. 242/2009.

The provisions of the Common Position concerning the embargoes on certain technical and financial assistance and the freezing of funds and economic resources fall within the competence of the European Union and are implemented by Council regulations.

Council regulations are directly and legally applicable in the EU member States as soon as they have been published in the *Official Journal of the European Union*. Funds and economic resources are frozen directly and immediately by the Council Regulations. No further national implementation is necessary in this respect.

II. National implementing measures

With regard to the arms embargo, Germany has implemented the restrictive measures through section 69 (f) of the Foreign Trade and Payments Regulation. Criminal penalties for any infringements of the arms embargo are set out in section 70 (a), paragraph 2, of the Foreign Trade and Payments Regulation, and section 34, paragraph 4, No. 1, of the Foreign Trade and Payments Act.

Criminal penalties for the violation of the directly applicable provisions of the Council Regulations and their amendments are imposed on the national level pursuant to section 34, paragraph 4, No. 2, of the Foreign Trade and Payments Act.

The penalty imposed by section 34, paragraph 4, of the Foreign Trade and Payments Act is a term of imprisonment of up to five years. Any attempt to violate will be punished in the same way. Violations due to negligence are sanctioned with imprisonment of up to three years or fines (section 34 (7) of the Foreign Trade and Payments Act).

Congolese nationals travelling to Germany require a visa when entering the European Union. Travel restrictions are being implemented through the visa application process.